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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in the Islamic Republic of Iran, submitted by the Special Representative of the Commission on Human Rights, Mr. Maurice Danby Copithorne, pursuant to Commission resolution 1998/80

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Executive Summary

President Khatami's plans for a tolerant, diverse and law-abiding society continue to unfold and their full implementation could have a major impact on human rights in the Islamic Republic of Iran.

Progress is being made, notably in the area of freedom of expression, but it faces considerable resistance.

The status of women is a high-profile subject but with little progress so far in sight on core issues.

The status of minorities continues to suffer benign neglect.

In some aspects of the legal system, the beginnings of change and of progress are in sight.

There continues to be great store set in the further development of democracy in Iran.

The condition of the Baha'is remains unchanged or perhaps, in some respects, it has worsened.

There has been a rash of disappearances and suspicious deaths that have created great unease in the country.

Introduction

1. In the period under review, from 1 September to 15 December 1998, progress continued to be made towards President Khatami's goal of a civil society, tolerant, diverse, and operating within the rule of law. Human rights - individual and group - were at the centre of this process. In the open atmosphere that now exists, it was not difficult to follow the progress as well as the failures.

2. For some, the progress is frustratingly slow. For others, it is proceeding in such a way as to threaten Islamic verities, the very basis of the Islamic Republic. The discourse is a remarkably open one which itself speaks for the enhancement of the freedom of expression in the country.

3. Indeed, this freedom is the terrain on which the debate, the struggle, is largely being waged. There has been a steadily increasing institutionalization of the paradigm within which this and its related rights can be safely exercised. The edges of the paradigm are still rough and subject to much controversy, but the trend is clear and said to be irreversible.

4. In certain legal areas including the court system and the re-emergence of the Bar Association, there is the prospect of change that must benefit human rights in the country.

5. Other areas, notably the status of women, are the subject of much attention. The advocates of change became ever more outspoken and now include

members of the political elite. However, the progress to date continues to be at the periphery; there is little sign so far of a willingness to tackle core issues.

6. The status of minorities continues to be an apparently forgotten one in the Government's plans and the full implications of the term "diversity" appears yet to be fully recognized.

7. Overall, opposition to the President's plans does not seem to have diminished. Indeed, there is a fear that the struggle may be developing a raw, even violent, edge. A rash of unexplained disappearances and suspicious deaths of intellectual and political activists has set nerves on edge and reinforced fears for the further development of a law-abiding society.

8. With regard to cooperation with the Commission on Human Rights, the Special Representative would note that the Government has not issued an invitation to him during the period under review, and he has thus not been able to visit Iran since February 1996. On the other hand, he does acknowledge the issuance of an invitation to the Working Group on Enforced or Involuntary Disappearances to visit Iran.

I. THE SPECIAL REPRESENTATIVE'S ACTIVITIES AND SOURCES

9. The Special Representative introduced his fourth report to the Third Committee of the General Assembly (A/53/423, annex) on 6 November 1998. While in New York, he held consultations with representatives of the Government of the Islamic Republic of Iran and representatives of several non-governmental organizations based in North America. The Special Representative travelled to Geneva from 7 to 17 December 1998 to draft the present report. The extensive programme for his stay in Geneva included a number of consultations and meetings with senior officials from the Iranian Government and the Office of the United Nations High Commissioner for Human Rights (OHCHR). He also met with representatives of various non-governmental organizations, and he received representations from interested persons concerning alleged human rights violations in the Islamic Republic.

10. In seeking to discharge his mandate, the Special Representative has used many sources for information, including the Government of the Islamic Republic, other Governments, individuals, non-governmental organizations and the Iranian and international media. In Geneva, the Special Representative had an opportunity to participate in an inter-agency informal consultation organized by OHCHR to discuss and exchange information among various United Nations and other intergovernmental agencies about the human rights and humanitarian situations in the Islamic Republic.

11. During the period under review, the Special Representative received written communications from the following non-governmental organizations: About Iran; Amnesty International; Human Rights Watch; Baha'i International Community; Committee for Defence of Liberty in Iran; Committee for the Defence of Prisoners in Iran; Committee to Protect Journalists; Democratic Party of Iranian Kurdistan; Dr. Homa Darabi Foundation; International PEN American Center; International PEN Writers in Prison Committee; National Council of

Resistance of Iran; Reporters Sans Frontières; Society for the Defence of Political Prisoners in Iran; Spectrum Institute; The Constitutionalist Movement of Iran.

II. FREEDOM OF EXPRESSION

12. In the period under review there has been increased turbulence in this sector. On the one hand, President Khatami was quoted in a foreign wire service report of a State television broadcast calling for more transparency in State media. "We are only fooling ourselves if we cover up realities in our society or the world. People will eventually find out somehow what is happening".

13. On the other hand, there was increased pressure on the press. A number of journals were banned or suspended for such offences as "insulting the late Ayatollah Khomeini", "altering remarks of the honoured Imam and publishing them in an insulting way", "distorting news and insulting the war disabled", carrying out "activities against national security", publishing "lies and insults" and "disturbing public opinion", and "dissemination of fabrications and insults". In some of these cases the officials of the journals concerned were detained; in some they were sentenced to such punishment as a one-year suspended jail sentence and a fine. In at least one case, a journal was shut down by court order and four of its journalists detained for a month, reportedly without access to family or lawyers. See annex I for further details.

14. The comments of several Iranian leaders seemed to have had a role in these developments. One said that "critique and criticism of the government policies are not bad but when someone attempts to undermine the foundations of the Government, it is treason and not freedom of expression". Another declared "these [newspapers] want to mislead the people. This is a cultural plot to overthrow our system". Two thirds of the Majlis deputies signed a letter declaring "those who write against the principles of Islam should be confronted as those working against the security of the State". A Cabinet Minister was quoted as saying that a number of arrested journalists had admitted they were working to transform Iran into a secular State.

15. To add to the uncertainty, there were quite evident differences of opinion over the press law regime among the executive, judicial and legislative branches. In a long interview published in an Iranian daily in September, the then press adviser to the President said that the ambiguity in the present regime was a major cause of the problem. There were significant differences of opinion between the executive and the judiciary over the interpretation of freedom of the press. Although she favoured an amendment to the law, such an effort at the present time might actually result in a loss of freedom for the press. She also suggested that part of the problem was the tendency of some journalists to "abuse freedom of the press for their evil ends". It was the responsibility of the Press Supervisory Board, which had a representative from both the judiciary and the legislature, rather than the courts, to supervise the press. The judiciary, she said, "was expected to understand this new atmosphere based on people's expectation after the 23 May presidential elections". As for the legislature, she said that the main reason for approving a new restrictive law concerning women was that the

majority of the Majlis deputies were unaware that the Press Law already covered this subject. She criticized the new law for failing to use legal terminology, thus leaving it open for persons "to use their personal taste to restrict the right of the press".

16. The Special Representative would note that article 168 of the Constitution states that inquiry into press offences shall be in an open court before a jury. This requirement does not seem to have been met in some of the recent cases against the press. Further, there is open competition for jurisdiction over the press from both the Revolutionary Courts and the Cleric's Court.

17. In the course of a long conversation with the Deputy Minister of Culture and Islamic Guidance, the Special Representative was briefed on the operation of the Press Supervisory Board. Over the past seven years there have been 250 complaints with 150 of these proceeding to hearings; 100 were dismissed by the jury and 50 were found to be valid. Only five or six papers have lost their licences over the period.

18. There are differences of view on the interpretation of article 24 of the Constitution which provides that the press should be free to express views and opinions subject to certain restrictions. This provision is echoed in articles 3 and 5 of the Press Law which also contains a definition of constructive criticism or fair comment. There are nine types of criticism defined in the Law as unconstructive. Some of these have never been invoked. Most complaints have been made under the heading of defaming officials, organs of Government or private individuals. The system is recognized as not being ideal but better than anything in the past. The Deputy Minister asserted that there was today objectivity and diversity in the Iranian press and that prepublication censorship did not exist.

19. One task the new Government had set for itself was to strengthen the public's confidence in the press. Some success is now evident in the increase in circulation from 17 per 1,000 population to 35 per 1,000 over the 18 months. The number of provincial publications has grown considerably to 281 of which 12 are dailies. There are currently around 1,200 press licences in existence of which 800-900 are active. There are now 50 dailies across the country. There are 30 ot er licences for dailies which for the moment are published less frequently.

20. The Deputy Minister said the economic situation of the press has been strengthened by the new Government's allocation of newsprint strictly according to circulation, and by its facilitation of the construction of a domestic pulp and paper facility to avoid the need for the industry to spend foreign exchange. There are some remaining subsidies for newsprint and printing equipment, but the Government hopes to phase them out and, if necessary, subsidize domestic pulp and paper production.

21. Another important development has been the establishment of professional press associations. In 1997, the Professional Association of Journalists was established which now has about 1,000 members. The Association has been

actively defending the rights of journalists and criticizing some procedures used against them. At least six other professional associations related to journal publication have also been established.

22. The Special Representative, while accepting that significant progress has and is continuing to be made, believes that serious weaknesses remain particularly in the area of the press control regime. As the Special Representative has urged before, and accepting of the fact that the rights of free speech cannot be absolute, there does need to be greater clarity in what constitutes fair or constructive comment. Further, discipline must come from one independent tribunal that acts according to the law and not personal taste, and in a transparent manner.

23. With regard to film and theatre, the Deputy Minister said there had been significant improvement. Ambiguities and personal taste had been removed from the clearance process which was now routine, a situation that the Special Representative confirmed with an Iranian film director. The problem now was the lack of theatre and film venues.

24. With regard to books, he said that publishers now received permanent rather than 12- or 18-month publishing licences. Licences to publish a particular title are usually granted within a few days. There is an appeal process. Only 100 titles have been rejected since the new Government took office; some 15,000 titles are now being published each year. The reissuance of a title no longer requires a new licence. The titles of books rejected and the reasons are reportedly published in the press.

25. The Special Representative cannot conclude this section without reference to the chilling effect that the recent murders of intellectual and political figures immediately had on open discourse and freedom of expression in Iran. Those involved with efforts to reactivate the Writer's Association have become marked figures. There have been calls from outside the country for an international inquiry. This matter is discussed further in chapter VIII.

III. THE STATUS OF WOMEN

26. In his interim report to the General Assembly, the Special Representative concluded that despite well-meaning policy declarations, the creation of new women's organizations, and significant publicity about the importance of women, the Government had so far achieved little improvement in the condition of Iranian women.

27. In one sense, gradual change has been under way for some time. For example, the illiteracy rate among women is said to have dropped from 22 to 9 per cent over the period since 1979. Indeed, according to a foreign press account, Population Action International in Washington reported recently that Iran was one of the 10 countries to have made the most progress in narrowing educational inequality between the sexes; 30 per cent of doctors are said to be women. The recruitment of women to work in the police force was recently approved, admittedly to work chiefly in women-related functions. A female journalists' association has been established. Women are beginning to be appointed to senior diplomatic positions overseas. The first female

university chancellor has been appointed, albeit of a women's university. More appointments of women were made to the judicial service but none still to the position of presiding judge. Some of these developments are significant; some are symbolic.

28. However, the construction of walls continues. Despite widespread opposition as mentioned in earlier reports of the Special Representative, the "Medical Religious Standard Conformity Act" providing for the complete separation along gender lines of all medical services in the country - from hospitals to rural health centres to pharmacies to medical education - was finally passed into law. The one reported exception is emergency wards. Women travelling in trains without a male companion are to have separate compartments set aside for them. In some Iranian cities, a park is being designated for the exclusive use of women. Both of these steps were considered to be primarily for the safety and convenience of the women concerned. A new passport office has been opened with separate facilities for men and women. In the Special Representative's opinion, separate but equal does not meet international standards for gender equality (see E/CN.4/1997/63).

29. The managing director of the judiciary's Bureau of Women's Affairs is quoted in the Iranian press as saying the most important problem women face in the courts is "the biased approach to their rights". She added that legislation that is meant to reduce the hardship that women undergo in areas such as divorce and landlord-tenant relations "does not get properly implemented". Anecdotal stories in the press certainly support these allegations.

30. For his part the Deputy Speaker of the Majlis is reported in the press to have stated that there was a long way to go before women could enjoy their full rights. He acknowledged that there were laws to be amended in this regard.

31. An education ministry official warned of the deterioration in the health of schoolgirls because of the lack of physical exercise, there being less than 240 hours of physical education throughout the entire secondary school education.

32. Violence against women in the family appears to be gaining more prominence. There are frequent anecdotal stories in the press of horrific cases of wife abuse. The situation is made worse by the discrimination in court sentences of Deyah (blood money) depending on whether the victim is a woman or a man. The Government has recently published several papers on the subject including a three-year action plan. These papers do acknowledge that a major problem exists and outline a plan that includes:

Increasing public awareness of the problem;

Preparing new laws to prevent violence against women and provide financial support for victims and vulnerable women;

Establishing women's shelters, hotline facilities and job-training facilities for vulnerable women.

33. In this case the Government has established a practical action plan and clear time thresholds. It remains to be seen whether they will be fulfilled.

34. For his part, the Special Representative believes that useful as many of these developments are, the various structural disabilities which Iranian women face are the heart of the problem. The Special Representative continues to believe these must be addressed squarely for there to be substantial, meaningful improvement in the status of women in Iran.

IV. THE STATUS OF MINORITIES

35. In this report, the Special Representative would draw attention to the international regime that applies to minorities, the highlights of which are set out in annex II. In Iran the reality appears to be that on the one hand, the Iranian Constitution assures minorities equality status, as set out in annex III; on the other, the laws contain numerous discriminatory provisions some of which are mentioned in annex IV.

36. The Special Representative would remind the Government of the concluding observations of the Human Rights Committee on the 1993 appearance of Iran before that Committee. 1/ On the subject of minorities in Iran, the Committee made clear its disappointment with the information provided by the Government at that time on this subject. The Special Representative would also draw attention to the concluding observations of the Committee on Economic, Social and Cultural Rights on the 1993 appearance of Iran before that Committee. 2/ The Committee categorizes the treatment of minorities in Iran as one of its "principal subjects of concern". More generally, the Special Representative would draw attention to the reportedly unimplemented recommendations of the Special Representative on religious intolerance with regard to the Islamic Republic (see E/CN.4/1996/95/Add.2, paras. 86-118).

37. The Special Representative would note that the Iranian Constitution includes a number of relevant equality provisions including articles 14, 15, 19 and 20. The Government needs to declare a commitment to the implementation of both the Iranian Constitution and of international standards, and to a timetable for implementation.

38. Some situations may require special treatment. The estimated 10 million Sunnis in Iran generally live in the border regions of the country. The Special Representative understands that while the Shias recognize Sunnis as fellow Muslims, there is reportedly a view in some Shia circles that conversion of the Sunnis is a worthwhile religious endeavour. This reportedly has given rise to occasional clashes in areas of mixed population, chiefly in west Azerbaijan, along the Persian Gulf and in Baluchistan/Sistan province. While such tension existed before the Islamic revolution in some areas, notably Sistan/Baluchistan, it appears to have worsened significantly since that time. The grievances of the Sunni Baluch community have been referred to in earlier reports of the Special Representative. They do not seem to be lessening. Indeed, there is a report of the community being warned in a threatening manner that the emigré Baluch leader Sheikh Molavi Abdolrahim Molazadeh had better abandon his publicity activities on behalf of the community, a report that officials deny as unfounded.

39. Sistan/Baluchistan is a harsh land with limited developmental prospects. Its economically disadvantaged condition has meant that its peoples, and the Baluch in particular, have below average education, health and job prospects. The traditional social structure as well as the continuing nomadic lifestyle of some compound the challenge of development. The transhipment of narcotics is one of the few economic activities available to many Baluch and, by all accounts, is seductively lucrative. There are also no doubt legitimate external security concerns in this exposed corner of the country. In this context, it should not be surprising that ethnic and religious differences are likely to come to the fore. It is a dangerous and tragic brew. The Special Representative urges the Government to treat this as an important and urgent development and human rights issue that it must address more vigorously than it had in the past.

V. THE STATUS OF THE BAHA'IS

40. The concern about the human rights situation of the Baha'is remains on the agenda of the Special Representative with fresh reports on situations of discrimination and even of persecution, including arbitrary detentions, arrests, raids on homes and confiscation of property. The freedom of Baha'is to travel outside of Iran continues to be impeded or denied altogether.

41. In late September, the Special Representative was informed that the death sentences against two members of the Baha'i faith had been confirmed by prison authorities in Mashhad, despite the assurances to the contrary provided to him earlier by the Iranian authorities (see annex V, para. 4). In response to the written inquiry of the Special Representative, officials stated that "the court found them guilty of charges of acting against national security and sentenced them to death", but "the defendants can still resort to appeal and/or clemency" (see annex V, para. 5). The Special Representative is following this case closely in the context of the earlier assurances given by the authorities that the death sentences on these Baha'is had been overturned.

42. Reports suggest that in the middle of December 1998, 17 Baha'is remained in detention, 6 sentenced to death, 7 to imprisonment for periods ranging from 3 to 8 years, and for the rest, to sentences which are not yet known. The charges reportedly include holding meetings and teaching their faith, cooperating with Baha'i educational activities and engaging in espionage activities of one sort or another.

43. The Special Representative's attention has been drawn to an apparently orchestrated raid between 29 September and 3 October 1998, in which over 36 faculty members of the Baha'i Institute of Higher Education (BIHE) were arrested in cities across the country. Those arrested were asked to sign a document declaring the closure of the BIHE and their undertaking not to cooperate any longer with it. The arrests, reported to have been carried out by officers of the Iranian Government's intelligence agency and the Ministry of Information, involved the seizure of some 70 computers, furniture, textbooks, scientific papers and documentary records. Four of those arrested still remain in custody - a fact which led the Special Representative to make a further inquiry of the Government (see annex V, para. 7).

44. A welcome development was the reported elimination of discrimination against Baha'i youth for enrolment in the pre-university year at the high school level. However, according to reports, their entry to universities continues to be refused.

45. Overall, the situation of the Baha'is has not improved; in some respects it has deteriorated. The Special Representative wishes to reiterate his appeal to the Government of the Islamic Republic to fulfil his outstanding recommendations (A/53/423, para. 45) as well as that of the Special Rapporteur on religious intolerance (see E/CN.4/1996/95/Add.2).

VI. LEGAL SUBJECTS

A. The courts

46. In his interim report to the General Assembly, the Special Representative noted the widespread debate that had emerged over the court system and more generally the legal system, as a prerequisite for the establishment of a civil society in the Islamic Republic. The Special Representative reported he had been informed by a senior official that an amendment bill to the existing legislation establishing the civil courts was to go to the Majlis shortly. The Special Representative is now informed by Mr. Mohammed Nassary, Deputy Prosecutor-General, that the bill of some 800 articles, part of which has been under discussion in the Majlis Judiciary Committee for two years, will be debated in the Majlis within a month.

47. Other reforms mentioned by the Deputy Prosecutor-General include the reduction of the requisite time served to be eligible for parole from two thirds of the sentence to one half. The prison term alternative for the payment of fines has been reduced from one day to be served for each 500 rial owing, to one day for each 50,000 rial owing, with the result that a large number of prisoners will now be released.

48. Since the Special Representative's last report, the Cleric's Court has come in for increased scrutiny with some critics arguing that it should be reformed and others that it should be abolished. Some argue that it is unconstitutional in that it was not established by legislation as required by the Constitution. Senior judiciary officials dispute this, arguing that there is legislation which refers to the Court and that in any case it was within the competence of the Leader to establish such a tribunal.

49. The mandate of this court is sweeping:

> All acts committed by clergy contrary to religious law;
>
> All disputes harmful to public security in which one of the contenders is a member of the clergy;
>
> All other cases entrusted to it by the Leader's office.

50. The cases are to be argued on the basis of religious law. Appeals are heard by another chamber of the Cleric's Court; the Supreme Court has no

jurisdiction in such cases. Defence lawyers have to be chosen from designated clergy. The hearings are not public and decisions are not usually made public. The Court apparently has authority to impose the death penalty. In November, the head of the Cleric's Court invited 14 clerics to form a press jury in the Cleric's Court.

51. In an earlier report, the Special Representative recommended that with regard to a number of clerics detained in Qum, as their offences were publicly declared to be ordinary crimes, the cases should be transferred to the civil courts where they would receive an open trial by jury and could be defended by a lawyer of their choice.

52. The Special Representative continues to believe that at this point in the Islamic Republic's history, it is difficult to justify the continued existence of such an apparently arbitrary and secretive tribunal. The Special Representative recommends that it be abolished, or at least that it be converted into a commission charged with settling theological disputes in the narrowest sense. The Special Representative sees the appointment of a press jury in the Cleric's Court as an ominous expansion of its jurisdiction, and a prescription for further confusion in the press regulation regime established by the Press Law.

53. In the Special Representative's view the experience of many other countries with such tribunals suggests that they inevitably deny a defendant what is today recognized as a fair trial, and that they are thus instruments of denial of human rights.

B. The Bar Association

54. In earlier reports, the Special Representative referred to the Government's repeated promises that there would be an election for the members of the Bar Executive Council as provided for in the Association's 1954 law but suspended since 1979. In 1997, following a new Majlis law, these elections were finally held. This 1997 law provided for the screening of the candidates by the Judges Court. In the event, 41 were confirmed out of 69, including 4 women. Out of the 2,000 lawyers in the central or Tehran Bar, 1,300 participated in the election.

55. The Special Representative recently had the opportunity to discuss this development with the newly elected President of the Central Bar Association Council, S.M. Jandaghi. The President frankly described the problems facing the Association, particularly the shortage of lawyers, if indeed lawyers are to play their role in fulfilling President Khatami's vision of a civil society. The Association has recently admitted 800 new candidates to its Bar admission course.

56. The President said that to make lawyers more accessible, the Bar Association has established a Legal Assistance Department which provides legal advice and, if appropriate, assistance in obtaining the services of a lawyer. The Special Representative noted the apparent difficulties faced by some disadvantaged groups such as the Baha'is in obtaining a lawyer, particularly a good one. The President said that every lawyer is expected to take on four pro bono cases a year. In court proceedings in which a lawyer is

required and is not already retained, the judge is expected to turn to the Association which will nominate four or five lawyers from among whom the judge will make a choice. With regard to the diligence and integrity with which such assigned lawyers advance their client's interest, the President acknowledged as possible the complaint brought to the Special Representative's attention of assigned lawyers seeming to play a passive role and, in some cases, being openly denounced in court by the accused as not telling the truth. He noted that there was a disciplinary court for lawyers within the Bar Association but it was only really becoming active since the election of the Bar Council.

57. There remains much to be done for lawyers to be able to play a significant role as advocates for human rights. One challenge is to obtain respect for the function of a lawyer by the various agencies of Government, including the judiciary. The open letter of the Association in August 1998 in which the shortcomings of the present court system were frankly laid out was a good start. Lawyers and legal officials are also beginning to speak out individually about the changes needed in the judiciary; the weaknesses are frequently described as poor training of judges, the absence of a judicial strategy, a lack of status for judges and lack of an appropriate judicial organization.

58. The Special Representative recommends that the Bar Association Council establish a strategy to identify and address the challenges facing the Bar, including a detailed description of goals and time-frames for achievement. The Council might also wish to consider exchange visits with Bar Associations in other countries.

C. Torture and other cruel, inhuman or degrading treatment or punishment

59. The Special Representative continues to receive reports of torture committed in Iran. It is safe to say that torture has been practised in Iran for a very long time. The Special Representative notes that it exists notwithstanding a specific provision in the Iranian Constitution banning it.

60. The most positive thing the Special Representative can say is to repeat the observations in his interim report to the General Assembly that for the first time some officials have been acknowledging the existence of torture, and secondly that its existence in Iran is now discussed in the press.

61. The Special Representative would urge the Government to move quickly to wipe out this inhuman and discreditable practice. As a first step, it might follow the same process it has used to address illegal detention centres, that is the appointment of a high-level inter-agency committee to examine the dimensions of the situation and recommend steps to be taken for its elimination.

62. One report of a stoning came to the Special Representative's attention, that of Khosrow Ibrahimi in Lahijan on or about 21 November, according to an Iranian daily. The individual concerned was said to have been able to extricate himself.

D. Executions

63. In his interim report to the General Assembly, the Special Representative noted that executions seemed to continue at a fairly high level. He reported that the Iranian authorities had agreed to cooperate in the provision of appropriate statistics. In the meantime, as reported in the Iranian press, there were probably some 155 executions from January to mid-December 1998, of which 60 were said to have taken place in public. These figures are generally regarded as being on the low side as it is widely assumed that many executions are not reported in the media.

64. The Special Representative again urges the Government to bring its policies in the matter of executions into line with Commission on Human Rights recommendations (resolution 1998/68).

VII. DEMOCRACY/A CIVIL SOCIETY

65. An important election held during the period under review, that for the Council of Experts, was held on 23 October amid controversy over the process of determining the eligibility of candidates. This was the first national election since the presidential election in May 1997 and it aroused considerable political interest for that reason.

66. The Council has in theory very substantial power. It appoints the Supreme Leader who has the final say on all State matters. The Council also has the power to oversee the Leader's work and to dismiss him if he fails to perform his duties properly. The Council has reportedly become more active in recent years in the matter of oversight.

67. Eligibility to stand for election to the Council is determined by the Council of Guardians. The spokesman for the Council was quoted in Iranian papers as declaring that the "most important criteria" were religious reputation and moral credibility, political and social insight and up-to-date knowledge of developments, loyalty to the Islamic Republic, and having "no record of political or social misbehaviour". He denied that factional, i.e. political, preferences played any role in determining eligibility. However, stories persisted of the use of examinations to disqualify applicants. Judging by press accounts, many applicants who failed to qualify complained openly that politics had played a role. In the event, 160 out of about 400 applicants, none of them women and only some 30-40 considered to be supporters of the President, were declared eligible, a proportion that gave rise to wide complaint that the process was not truly democratic.

68. Attention is now focused on State and local elections, the first since the Islamic Revolution in 1979. A bill was before the Majlis at the time of writing which would place approval of candidates in the hands of provincial executive bodies and would allow an appeal to the Supervisory Board or the Guardian Council only by refused applicants. It is expected that many more women will become candidates under this procedure. These elections, to be held on 26 February 1999, reflect an effort by the Government to make local governance more transparent and more responsible, in the President's words, to let people take charge of their own affairs.

69. Another important development is the emergence of the Presidential "Committee for Inspection and Supervision on the Implementation of the Constitution" (see annex V, para. 12). The mandate of the Committee is a strong one and it could go a long way in addressing the many apparent discrepancies between the Constitution on the one hand and the laws and practices on the other. One project the Committee reportedly has under way is preparing a definition of "political crimes"; another is said to concern the future of the Cleric's Court.

70. According to the Iranian press, a reorganization of the political structure of the country is under consideration. The objective appears to be to decentralize control over everyday activities of the people. Earlier there were reports of a proposal to loosen the control of the Guardian Council over the eligibility of candidates for national elections.

71. A number of new political parties were established in the period under review. One was a reformist political grouping of cultural and political figures. The founders of the Islamic Iran Participation Front declared they were seeking "freedom of thought, logic in dialogue and rule of law in social behaviour". This reportedly brings the total of licensed political groups to 50 although many of these are inactive for financial and other reasons.

72. Violence against politicians became more prominent. In September two reformist ministers of the Government were subjected to a public physical assault which was attributed to the extrajudicial group Ansar-i Hezbollah.

73. Two murders on 22 November by unknown assailants shocked many Iranians in the country and outside. The press estimated that 6,000 persons attended the funeral of Dariush Forouhar, the leader of the Iran Nation Party, and of his wife Parvanah. Mr. Forouhar was a veteran politician having among other roles served as Minister of Labour in the Bazargan Government. The Iran Nation Party was an unregistered but tolerated entity on Iran's political landscape. President Khatami termed the murders "a repugnant crime". The President and the head of the judiciary called for the immediate identification and bringing to trial of the perpetrators. A parallel with earlier unsolved murders of politicians was being drawn and rumours of a political dimension to the deaths persisted. Nine such activists have reportedly been killed in the last decade, half of them by the same method used in the deaths of the Foruhars. Reportedly, in none of the cases were the perpetrators known to have been found or brought to justice.

74. The Special Representative views these murders with regret and concern, concern that circumstances in Iran are not yet stable enough to permit dedicated politicians to serve their country without fear of physical attack and in some cases, for their lives.

VIII. DISAPPEARANCES AND SUSPICIOUS DEATHS

75. As this report was being prepared, considerable concern was being expressed inside and outside of Iran at a rash of disappearances and suspicious deaths of dissident literary and political figures:

The disappearance in August of prominent political dissident Pirouz Davani. There was an unconfirmed report in one Iranian paper in November that he had been killed (see annex V, para. 6);

The disappearance in November of Javad Sharif, formerly a dissident in exile, and his subsequent death officially attributed to a heart attack;

The murder in November of veteran political leader Dariush Forouhar and his wife (see para. 73);

The discovery on 9 December in the Tehran morgue of the body of a prominent poet, Mohammad Mokhtari, who had gone missing the previous week. Mr. Mokhtari was one of six prominent writers and intellectuals questioned by a Revolutionary Court in October and warned not to reactivate the writers union (see para. 25);

The discovery on 12 December of the body of a dissident translator and author, Mohammad Jafar Pouyandeh, who was also one of the six prominent writers and intellectuals questioned by the authorities in October.

76. These incidents suggest a pattern of harassment and persecution of moderate and often secular voices. It is being described as a challenge to the reformist policies of President Khatami, and as having a chilling influence on intellectual discourse. One journalist observed that "not since the revolution nearly 20 years ago has Iran witnessed such eerie, unexplained violence".

77. These incidents have been condemned by the Government, including the President. According to the press, significant efforts are being made by a dedicated investigative team to track down the culprits. For his part the Special Representative has called upon the Government to investigate thoroughly each of these cases, and to make the resulting reports public (see annex V, paras. 8-10).

IX. OTHER MATTERS

The fatwa against Salman Rushdie

78. In his interim report to the General Assembly, the Special Representative reported that as that report was in press, the media reported that an accommodation had apparently been reached between the Iranian and British Foreign Ministers. The agreement was contained in parallel press statements made on 24 September 1998 in New York.

79. In his statement to the Third Committee, the Special Representative said that he was concerned at the tenor of the comments that followed the agreement from various sources in Iran, some being senior political figures. These seemed to cast doubt on the agreement insofar as they declared that nothing had changed as a result of it. However, such comments appeared to die away in the month or so following the agreement.

80. The Special Representative notes with deep regret that after the agreement, the 15th Khordad Foundation again increased the bounty on Mr. Rushdie's life.

81. The Special Representative notes the progress made in this matter and trusts the remaining question concerning the bounty can now be put to rest.

Narcotics control

82. This issue continues to be a major problem for the Government. The Director of the State Prison Organization was quoted in the Iranian press as stating that 60 per cent of the 160,000 prisoners in the State system were there for drug-related offences. Most of the women in the system were there for drug offences. The Iranian press also carried stories indicating that significant seizures of narcotics continue to occur. An Iranian daily reported that the number of youthful addicts doubled last year. The punishment for drug trafficking was reportedly increased more than tenfold.

83. Meanwhile, according to foreign press stories, the United States Government has removed Iran from its list of drug-producing countries.

X. CORRESPONDENCE WITH THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

84. The correspondence exchanged during the reporting period between the Special Representative and the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva is described in annex V. Some of the correspondence concerned requests for information about individual allegations. Also during the period, the Special Representative sent urgent communications, jointly with other special rapporteurs, in which he appealed to the Government to ensure that those affected benefited fully from all the internationally recognized safeguards, particularly those provided for in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly by its resolution 43/173 of 9 December 1988.

85. While acknowledging the responses by the Government, the Special Representative encourages it to make further effort to respond to his outstanding requests for information concerning individual cases.

XI. CONCLUSIONS

86. The Special Representative has made a number of recommendations in the body of this report which reflect his conclusions. Despite considerable effort to enhance freedom of expression, there remain major uncertainties in the application of the Press Law that need to be eliminated. With regard to the status of women, there needs to be a clearer focus on the legal and practical discrimination they face. In the case of minorities, they must find a place in the Government's development plans. The status of the Baha'is also has to be addressed, perhaps in the context of the emerging civil society.

Court reform has to be pushed forward vigorously; the Cleric's Court should be abolished. The problem of torture must find a place on the Government's agenda.

87. The Government is now 18 months into its five-year mandate. Its plans for change as they are gradually becoming known, were and continue to be significant if not monumental. Progress has been uneven and objected to by many. The Government must find a way to establish the people's confidence in its plans in the face of attempts, including violent ones, to divert reform efforts. The Government must stay the course; it cannot afford to lose momentum.

Notes

1/ See Official Records of the General Assembly, Forty-eighth Session, Supplement No. 40 (A/48/40), paras. 190-270.

2/ Official Records of the Economic and Social Council 1994, Supplement No. 3 (E/1994/23-E/C.12/1993/19), paras. 122-130.

Annex I

FREEDOM OF EXPRESSION

Some incidents relating to press freedom that took place from September to December 1998 are related below:

16 Sept. The newspaper Tous was shut down by a Revolutionary Court for publishing articles considered detrimental to the nation. It had earlier published a digest of the statements of Tehran district mayors about their treatment in detention. Four Tous journalists were arrested.

17 Sept. Two newspapers, Tavana and Rahne Now, were ordered shut down because they published articles critical of some clerics.

22 Sept. Two senior officials of the official press agency IRNA were detained for a day because of complaints against them.

23 Sept. The Minister of Culture and Islamic Guidance supported the action to shut down Tous.

27 Sept. 265 journalists reportedly began a protest against what they saw as a campaign against the Iranian press.

27 Sept. The closure of Tous was formalized by the revoking of its licence by the Press Supervisory Board, an action that was criticized as being beyond the powers of the Board.

28 Sept. The proprietor of Zan appeared in court to answer charges of publishing lies in her paper. The charges were dismissed.

29 Sept. A court in Tehran banned the monthly Jamee Salem after finding it guilty of charges including insulting the late Ayatollah Khomeini.

1 Oct. Navid-e-Esfahan, a weekly in Isfahan, was temporarily closed on charges of "acting against the country's security, publishing lies and disturbing public opinion, as well as promoting opposition groups".

4 Oct. A court warned five writers involved in reactivating an association of Iranian writers that they could face charges of "anti-State activity", because the association was an "illegal underground political organization".

5 Oct. Asre-e-Ma, a biweekly publication, was suspended for six months by a Tehran court on charges of "fabrication and dissemination of insults".

5 Oct. A court announced that the managing director of Sabh was suspended from his position for four months for making accusations against a named individual.

15 Oct. The four Tous journalists were released. One of them later said that they were not told what charges they had been arrested for. "Our biggest sin ... was to have taken seriously calls for boosting civil society and political development".

7 Dec. The Press Supervisory Board convicted the managing director of Farda of publishing slanderous material against the armed forces and banned him from press activity for one year.

By at least one account, there were 25 such incidents in the period September to December 1998.

Annex II

THE STATUS OF MINORITIES

The following norms are the major elements in the international regime for the protection of the rights of minorities:

Article 27 of the International Covenant on Civil and Political Rights refers to the protection of the rights of ethnic, religious or linguistic minorities to enjoy their own culture, to profess and practise their own religion, or to use their own language;

In its general comment on the rights of minorities in the Covenant, the Human Rights Committee has stated that special measures to assist disadvantaged groups may be required; in a State where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct these conditions (General Comment 23 of 6 April 1994, para. 6.2);

The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (General Assembly resolution 47/135 of 18 December 1992) is the most comprehensive statement of the legal rights of minorities and the obligations falling upon States in this regard;

In resolution 1998/19 the Commission on Human Rights entitled "The rights of persons belonging to national or ethnic, religious and linguistic minorities":

> "Reaffirms the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law in accordance with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;
>
> "Urges States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration, including through the facilitation of their participation in all aspects of the political, economic, social, religious and cultural life of society and in the economic progress and development of the country."

Annex III

IRANIAN CONSTITUTIONAL PROVISIONS ON MINORITIES

In its report on the measures taken by Iran for the implementation of the recommendations of the Vienna Declaration and Plan of Action, the Government has identified the following articles of the Constitution as relevant to the protection of ethnic religious and linguistic minorities:

Article 14 provides for the treatment of non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity and "to respect their human rights".

Article 15 protects the use of regional and tribal languages in the press and mass media as well as for the teaching of their literature in schools.

Article 19 states that all people of Iran whatever their ethnic group or tribe, "enjoy equal rights".

Annex IV

DISCRIMINATORY LAWS

Some of the discriminatory laws faced by minorities in Iran are:

Article 207 Islamic Criminal Code

This section provides for punishment in the form of retribution (Ghesas) when a Muslim is killed. When the victim is a non-Muslim, the law is silent and by construction, no punishment needs to be enforced.

Article ... Islamic Criminal Code

If a non-married Muslim man commits fornication, his punishment is 100 lashes and if a non-Muslim man fornicates with a non-Muslim woman, the punishment is the same. However, if the woman is a Muslim, the punishment for the non-Muslim man is death.

Article 121 of the Islamic Civil Code

The punishment for "homosexual touching" (Tafkheey) and similar acts, if there is no entry, is 100 lashes. However, if the subject is a non-Muslim and the object a Muslim, the punishment for the subject is death.

Article 881 of the Civil Code

A non-Muslim shall not inherit from a Muslim if among the heirs of the deceased there is a Muslim.

Article 163 of the Constitution and the Conditions for Selection of Judges Code

Only a male Muslim may become a judge.

Articles 297 and 300 of the Civil Code

These provide for blood money (Deyeh) for the killing of a Muslim man or woman. By construction, non-Muslims are not entitled to blood money.

Annex V

CORRESPONDENCE BETWEEN THE SPECIAL REPRESENTATIVE AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN SEPTEMBER-DECEMBER 1998

1. To begin with, there is an incoming letter that was overlooked in previous reports. A letter dated 30 June 1998 from the Permanent Representative contained the following information in response to the Special Representative's letter dated 9 October 1997 in which he joined the Special Rapporteur on the question of torture inquiring about the allegations of conditions in the prisons of Ahvaz, Isfahan, Shiraz and Tehran, and of a hunger strike which resulted in the deaths of six prisoners (see E/CN.4/1998/59):

> "I would like to provide you with the following information received from relevant authorities from Tehran:
>
> "1. There has been no hunger strike in the said prisons. Torture and maltreatment of prisoners are categorically denied.
>
> "2. Out of six individuals mentioned in the letter of the Special Representative only Mr. Abdol Reza Abedi was identified who has been released on 3 September 1994 and is alive.
>
> "3. In order to enable the judiciary to pursue the other cases referred to in the letter, it would be highly appreciated if further detailed information, including their place of imprisonment were provided."

2. On 18 September 1998, the Special Representative addressed a letter to the Minister for Foreign Affairs requesting an information on the circumstances in which 60-year-old Ruhollah Kad-Kuhzadeh, said to be an active member of Tehran's Jewish community, was reported to have been executed for helping Jews to leave the Islamic Republic of Iran. The Government has not responded yet.

3. On the same day, the Special Representative transmitted another letter to the Minister for Foreign Affairs requesting a full explanation of the circumstances of the detention of Abbas Amir-Entezam, a Deputy Prime Minister under the transitional Government in 1979 and 1980. He was detained on 8 September 1998 at his home in Tehran following an interrogation earlier that day concerning allegedly defamatory statements that he made about the former director of the Iranian Prisons Organization. It is further reported that on the following day, a court ordered his release but he was not in fact released, it being explained to his family that his previously suspended life imprisonment sentence had been reimposed. The Government has not responded yet to this communication.

4. The Special Representative sent to the Permanent Representative, on 2 October 1998, an urgent appeal requesting verification of the alleged confirmation by prison authorities in Mashhad of death sentences against

Sirus Zabihi-Muqaddam and Hedayat Kashefi Najafabadi, both members of the Baha'i faith. The Special Representative recalled in this context his meeting with the Iranian Prosecutor General, Ayatollah Moghtadai (see A/53/423), who had informed him in person that the death sentences on these Baha'is had been overturned and that instead, they would probably be sentenced to a term in prison.

5. In response to the above-mentioned communication, the Permanent Representative, by a letter dated 7 October 1998, informed the Special Representative of the following:

> "I would like to provide you with the below information received from relevant authorities in Tehran:
>
> "Following the rejection by the Supreme Court of the death sentence on Messrs. Syrus Zabihi and Hhedayat Kashefi, the defendants, in accordance with due process of law, were retried by another competent court in Mashad. The court found them guilty of charges of acting against national security and sentenced them to death.
>
> "However, the verdicts are not finalized yet and require further confirmation by the Supreme Court.
>
> "In addition should the Supreme Court confirm the verdicts, the defendants can still resort to appeal and/or clemency."

6. On 4 November 1998, the Special Representative and the Chairman of the Working Group on Enforced or Involuntary Disappearances transmitted to the Minister for Foreign Affairs a joint urgent appeal requesting they be informed of the appropriate investigations in order to clarify the fate and whereabouts of Pirooz Faghaei Davani, a political activist. He was reported missing since he had left his home in Tehran on Tuesday, 25 August 1998. It was alleged that he may have been kidnapped by Iranian security forces. Sources also reported that Mr. Davani had established the "Union for Democracy in Iran" in December 1997, an organization which worked for democracy, independent workers' unions, the defence of prisoners and support for their families, and freedom of association, speech and religion. In addition, he had established the "Payame Piroz" publishing company which published analyses of politics and human rights in Iran.

7. On 14 December 1998, the Special Representative sent a letter to the Permanent Representative requesting information about the continued detention of four members of the Baha'i Community, Ziaullah Mirzapanah, Farzad Khajeh, Habibullah Ferdosian and Dr. Sina Hariman. It was reported that they were among those arrested in early October 1998 on charges of cooperating with the Baha'i Institute of Higher Education and, unlike others, not yet released.

8. Following reports that Majid Sharif, Mohammad Mokhtari and Mohamad Jafar Pouyandeh, all said to be writers, were found dead in suspicious circumstances after having disappeared on 23 November 1998, 3 and 9 December 1998, respectively, the Special Representative joined the Special Rapporteurs on extrajudicial, summary or arbitrary executions, and on the promotion and

protection of the right to freedom of opinion and expression in an urgent letter transmitted on 15 December 1998 to the Minister for Foreign Affairs.

9. The above joint communication also referred to the reported killings on 22 November 1998 of Dariush Forouhar and his wife, Parvaneh Forouhar, both prominent critics of the Government, and requested the Government to further the investigation thereon, and to make public the results thereof.

10. In this regard, the Special Representative and the two Special Rapporteurs expressed their deepest concern about the safety and physical integrity of all Iranian political and intellectual dissidents, including that of Pirooz Faghaei Davani (see para. 46). They requested the Government to provide any information on the above-mentioned cases and on any steps taken by the competent authorities in compliance with article 3 of the Universal Declaration of Human Rights and articles 6 and 19 of the International Covenant on Civil and Political Rights.

11. By letters dated 15 September 1998, 5, 13 and 26 October 1998, 5 and 23 November 1998 and 2 December 1998, the Permanent Representative provided the Special Representative with the text of several articles on various subjects published in Iranian newspapers.

12. By a letter dated 8 September 1998 the Permanent Representative forwarded to the Special Representative the text of President Khatami's order No. 25822 of 29 November 1997 on the establishment of the "Committee for Inspection and Supervision on the Implementation of the Constitution". The main duties of the Committee are, inter alia, "to regulate policy for the implementation of the Constitution, with particular preference which should be given to articles that contain individual and social rights of the Nation, and to submit it to the President; to submit amendatory and supplementary proposals as to laws and regulations for better and comprehensive implementation of the Constitution; and to regulate and suggest educational and research programmes, in order to familiarize the Nation of their legal rights, and to adopt appropriate approaches for discharging these rights".

13. On 9 September 1998, the Permanent Representative transmitted a letter to the Special Representative forwarding copies of the following documents: "A report on the measures taken by the Islamic Republic of Iran on the Elimination of Domestic Violence Against Women since 1994", "National Plan of Action on the Elimination of Domestic Violence Against Women" and "The last improvements in the field of human rights in the Islamic Republic of Iran".